

APPENDIX 2

FORMS REFERENCED IN THIS HANDBOOK

Forms

Form RD 443-16, Assignment of Income from Real Estate Security
Form RD 465-1, Application for Partial Release, Subordination, or Consent
Form RD 1910-5, Request for Verification of Employment
Form RD 1924-10, Release by Claimants
Form RD 1924-12, Inspection Report
Form RD 1927-8, Agreement with Prior Lienholder
Form RD 1940-16, Promissory Note
Form RD 1940-59, Settlement Statement
Form RD 1944-3, Budget and/or Financial Statement
Form RD 1944-4, Certification of Disability or Handicap
Form RD 1944-6, Interest Credit Agreement
Form RD 1944-14, Payment Assistance/Deferred Mortgage Assistance Agreement
Form RD 1944-62, Request for Verification of Deposit
Form RD 1955-1, Offer to Convey Security
Form RD 1965-14, Proof of Claim of the United States of America (Individual)
Form RD 3550-1, Authorization to Release Information
Form RD 3550-2, Request for Verification of Gift/Gift Letter
Form RD 3550-4, Employment Certification/Payment Assistance
Form RD 3550-6, Notice of Special Flood Hazards, Flood Insurance Purchase Requirements, and
Availability of Federal Disaster Relief Assistance
Form RD 3550-9, Initial Escrow Account Disclosure Statement
Form RD 3550-12, Subsidy Repayment Agreement
Form RD 3550-15, Tax Information
Form RD 3550-16, Release from Personal Liability
Form RD 3550-17, Funds Transmittal
Form RD 3550-18, Reamortization Agreement
Form RD 3550-19, Transmittal - Closing Documents
Form RD 3550-20, Application for Settlement of Indebtedness
Form RD 3550-21, Payment Subsidy Renewal Certification
Form RD 3550-22, Assumption Agreement Single Family Housing
Form RD 3550-26, Substitute Payment Coupon
FEMA Form 81-93, Standard Flood Hazard Determination
IRS Form 1099-C, Cancellation of Debt
Form SF-5510, Authorization Agreement for Preauthorized Payments

CERTIFICATIONS

Verification of Pensions and Annunities
Verification of Student Income and Expenses
Verification of Medical Expenses
Verification of Social Security Benefits
Verification of Public Assistance
Verification of Child/Dependent Care
Verification of Unemployment Benefits
Verification of Business Expenses
Verification of Support Payments
Certification of Disposition of Assets
Record of Oral Verification

VERIFICATION OF PENSIONS AND ANNUITIES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

A. INCOME FROM ANNUITIES

1. \$ _____ Current monthly gross amount received. Will the applicant continue to receive this monthly amount for the next twelve months? ____ Yes ____ No If, no please explain.
2. Describe any deductions from the gross amount that are taken.

B. VERIFICATION OF ASSETS

1. \$ _____ Current market value of assets held in the retirement or pension plan.
2. Can the applicant withdraw amounts from the retirement account without retiring or terminating employment? ____ Yes ____ No. If yes, explain the terms of the withdrawal, including any penalties.
3. Can the applicant borrow against amounts in the retirement account? ____ Yes ____ No If yes, explain the terms (maximum amount, interest rate, repayment term, purposes, etc.)

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

(Signature) Telephone Number: _____

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF STUDENT INCOME AND EXPENSES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

1. Describe any financial assistance the above-reference student receives.

<u>Amount</u>	<u>Source</u>	<u>Purpose for Which Funds May Be Used</u>
---------------	---------------	--------------------------------------------

2. Describe any expenses the above-referenced student has for:

\$ _____	Tuition
\$ _____	Housing
\$ _____	Books
\$ _____	Supplies and Equipment
\$ _____	Transportation
\$ _____	Misc. Personal Expenses
\$ _____	Total

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

(Signature) Telephone Number: _____

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VERIFICATION OF MEDICAL EXPENSES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

1. Please list the purpose of any accumulated medical bills, identify to whom the amount is owed, and provide the amount to be paid during the coming 12 months.

Amount

Owed To

Medical Expenses for

2. Medical Insurance Premiums

\$ _____ Amount Paid Payment Period: ____ per month, ____ per year

Medical Insurance Premiums

\$ _____ Amount Paid Payment period: ____ per month, ____ per year

3. List other anticipated medical expenses

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

(Signature) Telephone Number: _____

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VERIFICATION OF SOCIAL SECURITY BENEFITS

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

Social Security Data

_____ Date of Birth

_____ Gross Monthly Social Security Benefit Amount, Type of Benefit

_____ Gross Monthly Supplemental Security Income Payment Amount (including State Supplement) Type of Benefit

_____ Amount of Monthly Deductions for Medicare Paid by the Applicant

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

_____ Telephone Number: _____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF PUBLIC ASSISTANCE

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

	<u>Rate Per Month</u>
Number in Family: _____	
Aid to Families with Dependent Children	\$ _____
General Assistance	\$ _____
Does this amount include Court Awarded Support Payments	<input type="checkbox"/> Yes <input type="checkbox"/> No
Amount Specifically Designated for Shelter and Utilities	\$ _____
Other Assistance - Type: _____	\$ _____
Total Monthly Grant	\$ _____
Other Income - Source: _____	\$ _____
*Maximum Allowance for Rent and Utilities	\$ _____
Amount of Public Assistance given during the past 12 months	\$ _____

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

(Signature) Telephone Number: _____

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VERIFICATION OF CHILD/DEPENDENT CARE

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

Name of Person or Agency Providing Care: _____

Address: _____

Name(s) of person or Persons Cared for: _____

Specify Hours _____ and Days _____ of Care.

Average Amount Paid for Care: \$ _____ ☐ Week ☐ Month

Estimated Amount to be Paid in coming 12 months (including full-time summer care of school children, if applicable): \$ _____

Will any amount of this expense be reimbursed by an outside source: ☐ Yes ☐ No

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

Telephone Number: _____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF UNEMPLOYMENT BENEFITS

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

1. Are benefits being paid now? ☐ Yes ☐ No
2. If yes, what is Gross Weekly payment? \$ _____
3. Date of Initial Payment _____
4. Duration of Benefits _____ weeks
- Is claimant eligible for future benefits? ☐ Yes ☐ No
5. If yes, How many weeks? _____
6. If no, what is termination date of benefits? _____

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

(Signature) Telephone Number: _____

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VERIFICATION OF BUSINESS EXPENSES

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

Based on business transacted during _____ 19____, to _____ 19____

- | | |
|--------------------------------|----------|
| 1. Gross Income | \$ _____ |
| 2. Expenses: | |
| (a) Interest on Loans | \$ _____ |
| (b) Cost of Goods/Materials | \$ _____ |
| (c) Rent | \$ _____ |
| (d) Utilities | \$ _____ |
| (e) Wages/Salaries | \$ _____ |
| (f) Employee Contributions | \$ _____ |
| (g) Federal Withholding Tax | \$ _____ |
| (h) State Withholding Tax | \$ _____ |
| (i) FICA | \$ _____ |
| (j) Sales Tax | \$ _____ |
| (k) Other | \$ _____ |
| (l) Straight Line Depreciation | \$ _____ |
| Total Expenses | \$ _____ |
| 3. Net Income | \$ _____ |

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

Telephone Number: _____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

VERIFICATION OF SUPPORT PAYMENTS

REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.

APPLICANT IDENTIFICATION

Name _____ Social Security Number _____

REQUESTED INFORMATION

Name of Person Paying Support: _____

Address: _____

For () Former Spouse

() Children

Children Names are:

Amount of Support

\$ _____ ☐ Week, ☐ Month, ☐ Year

VERIFIER INFORMATION: Please sign this verification form and print the name, address and telephone number of the verifier.

Name: _____ Title: _____

Telephone Number: _____

(Signature)

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

CERTIFICATION OF DISPOSITION OF ASSETS

I/we certify that during the two years (24 months) period preceding the effective date of my certification or recertification of eligibility for program participation, I/we _____ have _____ have not disposed of more than \$1,000 in asset(s) for less than fair market value.

If asset(s) were disposed of for less than fair market value, describe:

Asset

Date of Disposition

1.

2.

3.

The amount received for the asset(s) disposed:

1.

2.

3.

Signature of Applicant

Date

Signature of Spouse

Date

WARNING: Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

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(12-23-96) SPECIAL PN

APPENDIX 3**LETTERS REFERENCED IN THIS HANDBOOK**

Handbook Letter 101(3550), Standardized Adverse Decision Letter

Handbook Letter 102(3550), Continuation with Unreaffirmed Debt After Discharge in
Bankruptcy

Handbook Letter 103(3550), Agreement to Increase Salary Offset

Handbook Letter 104(3550), Notification of Salary Offset

Handbook Letter 105(3550), Notification of Administrative Offset

Handbook Letter 106(3550), Request for Administrative Offset

Handbook Letter 107(3550), Request for Salary Offset

Handbook Letter 108(3550), Notification of IRS Offset

Handbook Letter 109(3550), Confirmation of IRS Offset

REFERENCE: Centralized Servicing Center Handbook Chapter 1

SUBJECT: Standardized Adverse Decision Letter

Date: [*insert today's date*]

[*insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]
[*insert borrower(s) street/post office address*]
[*insert city, state, and zip code*]

Re: [*Type/Amount of Assistance Requested*]

Dear [*insert borrower last name(s) (Mr., Mrs., Ms.)*]:

Thank you for the opportunity to consider your request for Rural Development assistance. In reviewing your request, we considered all information submitted to the Agency and the regulations that govern the assistance for which you applied. After careful review, we regret to inform you that we were unable to take favorable action on your request. The specific reasons for our decision are as follows:

(The following items should be included in each adverse decision letter and can be presented in different formats depending upon the type of assistance requested and reasons for denial:

- Specific reasons for the decision;
- Regulatory basis (CFR citation) for the decision;
- If applicable, a statement of any evidence considered in making the decision such as credit reports, financial statements, etc.;
- If applicable, a statement of any issues presented by the customer such as those discussed during any meetings or phone conversations; and

If you believe our decision is incorrect, or the facts used in this case are in error, you may pursue your rights to challenge our decision. Please see the attached document.

Sincerely,

[*insert name of RHS Official*]
[*insert title of RHS Official*]

Attachment [*insert Attachment 1-B or 1-C, as appropriate from Chapter 1*]

REFERENCE: Centralized Servicing Center Handbook Chapter 5

SUBJECT: Continuation with Unreaffirmed Debt After Discharge in Bankruptcy

Date: [*insert today's date*]

[*insert debtor(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]

[*insert debtor(s) street/post office address*]

[*insert city, state, and zip code*]

Dear [*insert debtor last name(s) (Mr., Mrs., Ms.)*]:

This is notice that the Rural Housing Service, (formerly Farmers Home Administration), will continue to service your Rural Housing loan in the usual manner even though you did not reaffirm your debt. This includes entitlement to all program benefits for which you may be eligible such as payment subsidy and moratorium.

You will be expected to submit your scheduled payments on or before the due date and to comply with all the other covenants contained in your promissory note. Non-compliance may result in foreclosure.

Because your debt is unreaffirmed, the Rural Housing Service will not hold you personally liable for the debt. This means that in the event of default, the Rural Housing Service will not seek a deficiency judgment and will look only to the security property for recovery of the debt.

Please call our office at _____ if you have any questions, or if you want to discuss your account.

Sincerely,

Bankruptcy Processor

(12-23-96) SPECIAL PN

REFERENCE: Centralized Servicing Center Handbook Chapter 7

SUBJECT: Agreement to Increase Salary Offset

Date: [*insert today's date*]

[*insert Agency name*]

[*insert Agency street/post office/ address*]

[*insert city, state, and zip code*]

Dear [*insert Agency Representative*]:

I, [*Name of employee*], agree to have \$ [*amount employee wants withheld*] withheld from my salary per pay period. This amount exceeds 15 percent of my disposable pay per pay period which is \$ [*15 percent of disposable pay per pay period*]. If the amount is less than 15 percent, it is based on the following reasons:

[*list reasons*]

[*Employee's Signature*]

[*Date*]

_____ Accepted

_____ Rejected

[*Certifying Official*]

[*Date*]

REFERENCE: Centralized Servicing Center Handbook Chapter 7

SUBJECT: Notification of Salary Offset

Date: [*insert today's date*]

[*insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]

[*insert borrower(s) street/post office address*]

[*insert city, state, and zip code*]

Dear [*insert borrower last name(s) (Mr., Mrs., Ms.)*]:

The Rural Housing Service (RHS) has reviewed the record relating to your [*delinquency*] [*debt*], and determined that you owe the U.S. Government \$ [*variable*]. In accordance with 7 CFR 3550 a review has been made of the circumstances giving rise to the [*delinquency*] [*debt*]. Based on that review, it is my judgment that the cost of collecting the debt through salary offset will not exceed the amount of the debt. In addition, to my knowledge, there are not any legal restrictions that would bar collecting that debt.

We intend to collect this amount by offsetting your salary until the [*delinquency*] [*debt*] and all accumulated interest and other costs are paid in full. Deductions of 15 percent of your disposable income will begin with the first pay period occurring 30 days from the date you receive this letter and will continue until the delinquency or other debt is paid. You may voluntarily agree to a higher percentage. If you agree to RHS collecting more than 15 percent of your disposable pay, please let us know immediately in writing.

Interest and other costs may be assessed in accordance with Department Regulation 2520-1, Interest on Delinquent Debt, and 4 CFR 102.13.

As a Federal employee, you have the following rights:

1. The right to copy the records relating to the [*delinquency*] [*debt*]. Charges will be assessed for copying;
2. The right to enter into a written agreement for a repayment schedule different from that proposed so long as your terms of repayment are agreeable to RHS;
3. The right to a hearing conducted by a USDA Administrative Law Judge or a hearing official from outside USDA. The hearing will consider the existence of the [*delinquency*] [*debt*], the amount of the [*delinquency*] [*debt*], and/or percentage of disposable pay to be deducted each pay period. The timely filing of a petition or a hearing will stop collection proceedings;

1. The right to a final decision on a hearing at the earliest practical date, but not later than 60 calendar days after you file your hearing petition;
2. The right to request a waiver of salary overpayment. You may also question the amount or validity of a salary overpayment or general delinquency or other debt by submitting a claim to the Comptroller General in accordance with General Accounting Office procedures;
3. The right to have any monies paid on or deducted for the [*delinquency*] [*debt*] which are later waived or found not owed to the United States to be promptly refunded to you unless there are applicable contractual or statutory provisions to the contrary.

(Use this paragraph only for collection-only accounts or other delinquent accounts for which there is no security)

RHS has a debt settlement procedure which might allow your debt to be canceled or charged off. If you would like to know more about this, contact the Central Servicing Center.

Submitting false or frivolous statement, representations, or evidence may subject you to disciplinary proceedings or civil or criminal penalties.

If you wish to file a petition for a hearing, we must receive the petition within 30 days from the date you receive this letter. The petition should be mailed to:

[*Insert address*]

You must sign the petition and must indicate your knowledge of whether you are [*delinquent*] [*liable for the debt*], or any part of the [*delinquency*] [*debt*]. You should fully identify and explain all the information and evidence that supports your position. If you would like reconsideration of the percentage of disposable income to be deducted, you should state your reasons.

Sincerely.

[*insert name of RHS Official*]

[*insert title of RHS Official*]

REFERENCE: Centralized Servicing Center Handbook Chapter 7

SUBJECT: Notification of Administrative Offset

Date: [*insert today's date*]

[*insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]

[*insert borrower(s) street/post office address*]

[*insert city, state, and zip code*]

Dear [*insert borrower last name(s) (Mr., Mrs., Ms.)*]:

The Rural Housing Service (RHS) intends to use administrative offset to collect the debt or debts you owe them. This notice advises of your rights concerning administrative offset as given by the Debt Collection Act, 31 U.S.C. 3716; the Federal Claims Collection Standards, 4 CFR 101-105; and the Rural Housing Service's Administrative Offset Regulations, 7 CFR 3550.

The RHS intends to begin taking, by administrative offset, money you are owed by (*Insert the name of the Federal Agency where RHS will send the offset request*) up to the full amount of the debt or debts you owe RHS.

RHS records show that you owe a total amount of \$ [*amount past due*], as of [*date*], and that interest is accumulating, after this date, at \$ per .

The RHS will start offsetting this money in not less than 30 days after you receive this notice. RHS will not start offsetting this money, however, if you pay your debt in full within 30 days after you receive this notice.

Your Right To A Meeting Before Administrative Offset Begins

You also have the right to a conference with an RHS official before RHS begins using administrative offset. At this conference you can:

- present any information on whether you really owe the debt or debts mentioned in the notice you received with this one, and whether the amounts RHS claims that you owe are correct or not, and/or
- give reasons why it would create an extreme hardship for you, or would be unfair for some other reason, if RHS uses administrative offset to collect the debt or debts you owe.

Is in the discretion of RHS to decide whether special circumstances do or do not justify a decision not to use administrative offset to collect the debt or debts you owe RHS.

You can also, either at the conference, or without asking for a conference, present any written submission to RHS on why you think the debt is not really owed, why the amount is not correct, or why you think administrative offset would create an extreme hardship or otherwise be unfair. If you want to present a written submission, you must present it within 30 calendar days after you receive this notice.

Your Right To Copy Records On Your Loan Or Loans

You also have the right to inspect and copy any records concerning your account with RHS prior to your conference with RHS.

How To Request Your Conference And A Copy Your Records

If you want a conference, or if you want to have a copy any of RHS records concerning your account, you must make a request. You can do this by contacting the office that sent you these notices as soon as you can, by telephone or in writing. You must make your request to copy your records within 15 calendar days after you receive this notice, and you must make your request for a conference within 30 calendar days after you receive this notice. If you ask to copy records and also ask for a conference, the RHS will schedule the conference not less than 10 working days after the date you inspect the records. You will be advised of the time and date of the meeting.

How to Make a Written Submission

If you want to make a written submission, but do not want a conference, you must have your written submission to RHS within 30 days after you receive this notice.

Your Appeal Rights

If, at the conference with RHS, you ask that offset not be used in your case, but the RHS decision is to use it, you then have the right to an administrative appeal on the issue of whether this decision was made in accordance with the laws and regulations applicable to RHS. The RHS will advise you on how to ask for this appeal in a letter that will be sent after the conference.

If you make a written submission, but do not have a meeting, you will have administrative appeal rights after the RHS responds to your written submission. The RHS will advise you on how to ask for this appeal in a letter that will be sent to you after considering your submission.

You can decide not to ask for a conference or make a written submission, and instead ask for an administrative appeal now. If you want an administrative appeal now, and do not also want a meeting or to make a written submission, you must request your administrative appeal now. See the attachment for your appeal rights (*Attach borrower appeal rights*) A request for appeal must be sent to the Area Supervisor, National Appeal Staff, (*Insert address*), postmarked no later than (*Insert date 30 days from date of letter*).

If, after your conference or after your written submission, the RHS decides to go ahead with administrative offset, RHS will begin using administrative offset to collect amounts you owe even though your administrative appeal process is about to start or is still pending.

If you ask for an administrative appeal now, instead of requesting a conference or making written submission, RHS will go ahead with administrative offset during the appeal. But, if you should win your appeal, any money collected by administrative offset will be returned to you with interest.

Last Notice

This is the last notice on administrative offset that RHS will sent out before it starts using administrative offset. If you want to use any of the rights set out in this notice, you must take action now.

Sincerely,

[*insert name of RHS Official*]

[*insert title of RHS Official*]

(12-23-96) SPECIAL PN

REFERENCE: Centralized Servicing Center Handbook Chapter 7

SUBJECT: Request for Administrative Offset

Date: [*insert today's date*]

[*insert Agency name*]
[*insert Agency street/post office address*]
[*insert city, state, and zip code*]

Dear [*insert Agency Representative*]:

The Rural Housing Service (RHS) requests administrative offset from [*Agency*] program payments due or to become due to the below named delinquent debtor. This debt results from default on an RHS loan. RHS has exhausted all other resources available to it in an attempt to collect this debt.

[*insert debtor(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]
[*insert debtor(s) street/post office address*]
[*insert city, state, and zip code*]
[*insert County*]

RHS account number (variable)

Total amount delinquent (\$)

Principal delinquent (\$)

Interest delinquent (\$)

Delinquency as of (date)

Interest rate/year (%)

Daily accrual (\$)

Date due process letter was sent to debtor: [Insert date Handbook Letter 105(3550) was sent to debtor. Must be at least 30 days before the date of this letter.]

RHS certifies that the person named in this request owes this debt and that all of the due process and other applicable requirements of 31 U.S.C. 3716, 4 CFR Part 102, and its own regulations regarding administrative offset have been met. RHS has not been notified of any bankruptcy proceedings filed by the debtor.

Make checks payable to the Rural Housing Service and mail offset funds to [*Insert address and closing*].

Sincerely,

Centralized Servicing Representative

REFERENCE: Centralized Servicing Center Handbook Chapter 7

SUBJECT: Request for Salary Offset

Date: [*insert today's date*]

[*insert Agency name*]
[*insert Agency street/post office address*]
[*insert city, state, and zip code*]

Dear [*insert Agency Representative*]:

The Rural Housing Service requests salary offset from [*Agency Name*]. The employee named below has asked us to withhold [*15 percent of their disposable pay or stated amount*] each pay period to offset their [*delinquency, indebtedness*] with the Department of Agriculture.

[*insert debtor(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]
[*insert debtor(s) street/post office address*]
[*insert city, state, and zip code*]
[*insert County*]

This salary offset has been taken in accordance with the Debt Collection Act of 1982 and the Department of Agriculture's Salary Offset Regulations. If you have any questions or concerns regarding this action, you should contact the Central Servicing Center at _____.

Sincerely,

[*insert name of RHS Official*]
[*insert title of RHS Official*]

(12-23-96) SPECIAL PN

REFERENCE: Centralized Servicing Center Handbook Chapter 7

SUBJECT: Notification of IRS Offset

Date: [*insert today's date*]

[*insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]
[*insert borrower(s) street/post office address*]
[*insert city, state, and zip code*]

Dear [*insert borrower last name(s) (Mr., Mrs., Ms.)*]:

Refund for Offset

Our records indicate that you are more than 2 months delinquent on a debt to the Rural Housing Service (RHS). The Internal Revenue Service (IRS) collects many delinquent payments by deducting the amount of the debt from income tax refunds to which delinquent borrowers were entitled. RHS plans to collect delinquent amounts through offset, and will refer information concerning your account to IRS. All amounts collected will be applied to your loan less processing fees.

Legal Notice

Any Federal agency that is owed a past-due, legally enforceable debt will notify the IRS of the amount of the debt. A Federal agency, before notifying the IRS, must notify the taxpayer that the Agency plans to refer the debt to IRS for offset, determine that the debt is past-due and legally enforceable after providing the taxpayer at least 60 days in which to present evidence to the contrary, and make reasonable efforts to collect the debt. This letter is to comply with these requirements.

Joint Filings with IRS

If you are married, filing a joint tax return, and you incurred this debt separately from your spouse who has no legal responsibility for the debt and who has income and withholding and/or estimated tax payments, he or she may be entitled to receive his or her portion of the joint refund. Such taxpayers filing joint returns should contact the IRS before filing their return regarding the steps to take to protect the share of the refund which may be payable to the non-obligated spouse.

60 Days to Provide Information

If you feel you should not be reported for offset, you have 60 days from the date of receipt of this letter to provide written information to the Central Service Center to show that offset should not be exercised. For example, you will not be reported if you have brought the account current to less than 2 months past due, or if you have agreed to bring the account current and RHS has officially agreed to that plan. Also, you will be exempted if the debt has been discharged in bankruptcy, you are under the jurisdiction of a bankruptcy court, or it is determined that RHS is not legally entitled to collect the debt at this time. The Central Service Center will review the information you provide and notify you of the final decision regarding the offsetting of your IRS refund.

We strongly urge you to bring your account current.

Credit Bureau Reporting

If you are reported for IRS offset, your account may be reported to credit bureau agencies. You have the same 60 day period from receipt of this letter to file a written request with the Central Service Center for a review of the status of your account and any information that is proposed to be reported to credit agencies. Once reporting begins it will be continued and updated monthly for 7 years. The amounts listed on the reverse side of this notice reflect the status of your RHS loan(s) based on payments received by RHS Central Service Center.

ALL CONTACTS WITH RHS ARE TO BE DIRECTED TO THE CENTRAL SERVICE CENTER WHICH IS SERVICING YOUR LOAN.

Sincerely,

[*insert name of RHS Official*]

[*insert title of RHS Official*]

REFERENCE: Centralized Servicing Center Handbook Chapter 7

SUBJECT: Confirmation of IRS Offset

Date: [*insert today's date*]

[*insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)*]

[*insert borrower(s) street/post office address*]

[*insert city, state, and zip code*]

Dear [*insert borrower last name(s) (Mr., Mrs., Ms.)*]:

[*Insert the appropriate response*]

We have reviewed the information you submitted concerning Internal Revenue Service (IRS) offset and have requested that your name be removed from IRS offset records. No offset will be exercised against your refund.

OR

We have reviewed the information you submitted concerning IRS offset and do not agree with you. We believe that your RHS debt is legally enforceable and that you are at least 2 months past due in your payments. Your name will remain on IRS records, and offset will be exercised against your refunds. In addition, information concerning your account may be reported to a credit bureau.

Sincerely,

[*insert name of RHS Official*]

[*insert title of RHS Official*]

APPENDIX 4

7 CFR PART 11--NATIONAL APPEALS DIVISION RULES OF PROCEDURE

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11.14 Filing of appeals and computation of time.

Authority: 5 U.S.C. 301; Title II, Subtitle H, Pub. L. 103-354, 108 Stat. 3228 (7 U.S.C. 6991 et seq.); Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

§ 11.1 Definitions.

For purposes of this part:

Adverse decision means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant within timeframes specified by agency program statutes or regulations or within a reasonable time if timeframes are not specified in such statutes or regulations. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

Agency means:

- (1) The Agricultural Stabilization and Conservation Service (ASCS);
- (2) The Commodity Credit Corporation (CCC);
- (3) The Farm Service Agency (FSA);
- (4) The Farmers Home Administration (FmHA);
- (5) The Federal Crop Insurance Corporation (FCIC);
- (6) The Natural Resources Conservation Service (NRCS);
- (7) The Rural Business-Cooperative Service (RBS);
- (8) The Rural Development Administration (RDA);
- (9) The Rural Housing Service (RHS);
- (10) The Rural Utilities Service (RUS) (but not for programs authorized by the Rural Electrification Act of 1936 and the Rural Telephone Bank Act, 7 U.S.C. 901 et seq.);

(11) The Soil Conservation Service (SCS);

(12) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)); and

(13) Any successor agency to the above-named agencies, and any other agency or office of the Department which the Secretary may designate.

Agency record means all the materials maintained by an agency related to an adverse decision which are submitted to the Division by an agency for consideration in connection with an appeal under this part, including all materials prepared or reviewed by the agency during its consideration and decision-making process, but shall not include records or information not related to the adverse decision at issue. All materials contained in the agency record submitted to the Division shall be deemed admitted as evidence for purposes of a hearing or a record review under Sec. 11.8.

Agency representative means any person, whether or not an attorney, who is authorized to represent the agency in an administrative appeal under this part.

Appeal means a written request by a participant asking for review by the National Appeals Division of an adverse decision under this part.

Appellant means any participant who appeals an adverse decision in accordance with this part. Unless separately set forth in this part, the term "appellant" includes an authorized representative.

Authorized representative means any person, whether or not an attorney, who is authorized in writing by a participant, consistent with Sec. 11.6(c), to act for the participant in an administrative appeal under this part. The authorized representative may act on behalf of the participant except when the provisions of this part require action by the participant or appellant personally.

Case record means all the materials maintained by the Secretary related to an adverse decision. The case record includes both the agency record and the hearing record.

Days means calendar days unless otherwise specified.

Department means the United States Department of Agriculture (USDA).

Director means the Director of the Division or a designee of the Director.

Division means the National Appeals Division established by this part.

Equitable relief means relief which is authorized under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws administered by the agency.

Ex parte communication means an oral or written communication to any officer or employee of the Division with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports, or inquiries on Division procedure, in reference to any matter or proceeding connected with the appeal involved.

Hearing, except with respect to Sec. 11.5, means a proceeding before the Division to afford a participant the opportunity to present testimony or documentary evidence or both in order to have a previous determination reversed and to show why an adverse determination was in error.

Hearing Officer means an individual employed by the Division who conducts the hearing and determines appeals of adverse decisions by any agency.

Hearing record means all documents, evidence, and other materials generated in relation to a hearing under Sec. 11.8.

Implement means the taking of action by an agency of the Department in order fully and promptly to effectuate a final determination of the Division.

Participant means any individual or entity who has applied for, or whose right to participate in or receive, a payment, loan, loan guarantee, or other benefit in accordance with any program of an agency to which the regulations in this part apply is affected by a decision of such agency. With respect to guaranteed loans made by FSA, both the borrower and the lender jointly must appeal an adverse decision except that the denial or reduction of a final loss payment to a lender shall be appealed by the lender only. The term does not include persons whose claim(s) arise under:

- (1) Programs subject to various proceedings provided for in 7 CFR part 1;
- (2) Programs governed by Federal contracting laws and regulations (appealable under other rules and to other forums, including to the Department's Board of Contract Appeals under 7 CFR part 24);
- (3) The Freedom of Information Act (appealable under 7 CFR part 1, subpart A);

- (4) Suspension and debarment disputes, including, but not limited to, those falling within the scope of 7 CFR parts 1407 and 3017;
- (5) Export programs administered by the Commodity Credit Corporation;
- (6) Disputes between reinsured companies and the Federal Crop Insurance Corporation;
- (7) Tenant grievances or appeals prosecutable under the provisions of 7 CFR part 1944, subpart L, under the multi-family housing program carried out by RHS;
- (8) Personnel, equal employment opportunity, and other similar disputes with any agency or office of the Department which arise out of the employment relationship;
- (9) The Federal Tort Claims Act, 28 U.S.C. 2671 et seq., or the Military Personnel and Civilian Employees Claims Act of 1964, 31 U.S.C. 3721; or
- (10) Discrimination complaints prosecutable under the nondiscrimination regulations at 7 CFR parts 15, 15a, 15b, and 15e.

Record review means an appeal considered by the Hearing Officer in which the Hearing Officer's determination is based on the agency record and other information submitted by the appellant and the agency, including information submitted by affidavit or declaration.

Secretary means the Secretary of Agriculture.

§ 11.2 General statement.

(a) This part sets forth procedures for proceedings before the National Appeals Division within the Department. The Division is an organization within the Department, subject to the general supervision of and policy direction by the Secretary, which is independent from all other agencies and offices of the Department, including Department officials at the state and local level. The Director of the Division reports directly to the Secretary of

Agriculture. The authority of the Hearing Officers and the Director of the Division, and the administrative appeal procedures which must be followed by program participants who desire to appeal an adverse decision and by the agency which issued the adverse decision, are included in this part.

(b) Pursuant to section 212(e) of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Public Law 103-354 (the Act), 7 U.S.C. 6912(e), program participants shall seek review of an adverse decision before a Hearing Officer of the Division, and may seek further review by the Director, under the provisions of this part prior to seeking judicial review.

§ 11.3 Applicability.

(a) Subject matter. The regulations contained in this part are applicable to adverse decisions made by an agency, including, for example, those with respect to:

- (1) Denial of participation in, or receipt of benefits under, any program of an agency;
- (2) Compliance with program requirements;
- (3) The making or amount of payments or other program benefits to a participant in any program of an agency; and
- (4) A determination that a parcel of land is a wetland or highly erodible land.

(b) Limitation. The procedures contained in this part may not be used to seek review of statutes or USDA regulations issued under Federal law.

§ 11.4 Inapplicability of other laws and regulations.

The provisions of the Administrative Procedure Act generally applicable to agency adjudications (5 U.S.C. 554, 555, 556, 557, & 3105) are not applicable to proceedings under this part. The Equal Access to Justice Act, as amended, 5 U.S.C. 504, does not apply to these proceedings. The Federal Rules of Evidence, 28 U.S.C. App., shall not apply to these proceedings.

§ 11.5 Informal review of adverse decisions.

(a) Required informal review of FSA adverse decisions. A participant must seek an informal review of an adverse decision issued at the field service office level by an officer or employee of FSA, or by any employee of a county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590h(b)(5), before NAD will accept an appeal of an FSA adverse decision. Such informal review shall be done by the county or area committee with responsibility for the adverse decision at issue. The procedures for requesting such an informal review before FSA are found in 7 CFR part 780. After receiving a decision upon review by a county or area committee, a participant may seek further informal review by the State FSA committee or may appeal directly to NAD under Sec. 11.6(b).

(b) Optional informal review. With respect to adverse decisions issued at the State office level of FSA and adverse decisions of all other agencies, a participant may request an agency informal review of an adverse decision of that agency prior to appealing to NAD. Procedures for requesting such an informal review are found at 7 CFR part 780 (FSA), 7 CFR part 614 (NRCS), 7 CFR part 1900, subpart B (RUS), 7 CFR part 1900, subpart B (RBS), and 7 CFR part 1900, subpart B (RHS).

(c) Mediation. A participant also shall have the right to utilize any available alternative dispute resolution (ADR) or mediation program, including any mediation program available under title V of the Agriculture Credit Act of 1987, 7 U.S.C. 5101 et seq., in order to attempt to seek resolution of an adverse decision of an agency prior to a NAD hearing. If a participant:

(1) Requests mediation or ADR prior to filing an appeal with NAD, the participant stops the running of the 30-day period during which a participant may appeal to NAD under Sec. 11.6(b)(1), and will have the balance of days remaining in that period to appeal to NAD once mediation or ADR has concluded.

(2) Requests mediation or ADR after having filed an appeal to NAD under Sec. 11.6(b), but before the hearing, the participant will be deemed to have waived his right to have a hearing within 45 days under Sec. 11.8(c)(1) but shall have the right to have a hearing within 45 days after conclusion of mediation or ADR.

§ 11.6 Director review of agency determination of appealability and right of participants to Division hearing.

(a) Director review of agency determination of appealability.

(1) Not later than 30 days after the date on which a participant receives a determination from an agency that an agency decision is not appealable, the participant must submit a written request to the Director to review the determination in order to obtain such review by the Director.

(2) The Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal, and will issue a final determination notice that upholds or reverses the determination of the agency. This final determination is not appealable. If the Director reverses the determination of the agency, the Director will notify the participant and the agency of that decision and inform the participant of his or her right to proceed with an appeal.

(3) The Director may delegate his or her authority to conduct a review under this subsection to any subordinate official of the Division other than a Hearing Officer. In any case in which such review is conducted by such a subordinate official, the subordinate official's determination shall be considered to be the determination of the Director and shall be final and not appealable.

(b) Appeals of adverse decisions.

(1) To obtain a hearing under Sec. 11.8, a participant personally must request such hearing not later than 30 days after the date on which the participant first received notice of the adverse decision or after the date on which the participant receives notice of the Director's determination that a decision is appealable. In the case of the failure of an agency to act on the request or right of a recipient, a participant personally must request such hearing not later than 30 days after the participant knew or reasonably should have known that the agency had not acted within the timeframes specified by agency program regulations, or, where such regulations specify no timeframes, not later than 30 days after the participant reasonably should have known of the agency's failure to act.

(2) A request for a hearing shall be in writing and personally signed by the participant, and shall include a copy of the adverse decision to be reviewed, if available, along with a brief statement of the participant's reasons for believing that the decision, or the agency's failure to act, was wrong. The participant also shall send a copy of the request for a hearing to the agency, and may send a copy of the adverse decision to be reviewed to the agency, but failure to do either will not constitute grounds for dismissal of the appeal. Instead of a hearing, the participant may request a record review.

(c) If a participant is represented by an authorized representative, the authorized representative must file a declaration with NAD, executed in accordance with 28 U.S.C. 1746, stating that the participant has duly authorized the declarant in writing to represent the participant for purposes of a specified adverse decision or decisions, and attach a copy of the written authorization to the declaration.

§ 11.7 Ex parte communications.

(a) Ex parte communications.

(1) At no time between the filing of an appeal and the issuance of a final determination under this part shall any officer or employee of the Division engage in ex parte communications regarding the merits of the appeal with any person having any interest in the appeal pending before the Division, including any person in an advocacy or investigative capacity. This prohibition does not apply to:

(i) Discussions of procedural matters related to an appeal; or

(ii) Discussions of the merits of the appeal where all parties to the appeal have been given notice and an opportunity to participate.

(2) In the case of a communication described in paragraph (a)(1)(ii) of this section, a memorandum of any such discussion shall be included in the hearing record.

(b) No interested person shall make or knowingly cause to be made to any officer or employee of the Division an ex parte communication relevant to the merits of the appeal.

(c) If any officer or employee of the Division receives an ex parte communication in violation of this section, the one who receives the communication shall place in the hearing record:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses to such communications, and memoranda stating the substance of any oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section the Hearing Officer or Director may, to the extent consistent with the interests of justice and the policy of the underlying program, require the party to show cause why such party's claim or interest in the appeal should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

§ 11.8 Division hearings.

(a) General rules.

(1) The Director, the Hearing Officer, and the appellant shall have access to the agency record of any adverse decision appealed to the Division for a hearing. Upon request by the appellant, the agency shall provide the appellant a copy of the agency record.

(2) The Director and Hearing Officer shall have the authority to administer oaths and affirmations, and to require, by subpoena, the attendance of witnesses and the production of evidence. A Hearing Officer shall obtain the concurrence of the Director prior to issuing a subpoena.

(i) A subpoena requiring the production of evidence may be requested and issued at any time while the case is pending before the Division.

(ii) An appellant or an agency, acting through any appropriate official, may request the issuance of a subpoena requiring the attendance of a witness by submitting such a request in writing at least 14 days before the scheduled date of a hearing. The Director or Hearing Officer shall issue a subpoena at least 7 days prior to the scheduled date of a hearing.

(iii) A subpoena shall be issued only if the Director or a Hearing Officer determines that:

(A) For a subpoena of documents, the appellant or the agency has established that production of documentary evidence is necessary and is reasonably calculated to lead to information which would affect the final determination or is necessary to fully present the case before the Division; or

(B) For a subpoena of a witness, the appellant or the agency has established that either a representative of the Department or a private individual possesses information that is pertinent and necessary for disclosure of all relevant facts which could impact the final determination, that the information cannot be obtained except through testimony of the person, and that the testimony cannot be obtained absent issuance of a subpoena.

(iv) The party requesting issuance of a subpoena shall arrange for service. Service of a subpoena upon a person named therein may be made by registered or certified mail, or in person. Personal service shall be made by personal delivery of a copy of the subpoena to the person named therein by any person who is not a party and who is not less than 18 years of age. Proof of service shall be made by filing with the Hearing Officer or Director who issued the subpoena a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service in person or by return receipts for certified or registered mail.

(v) A party who requests that a subpoena be issued shall be responsible for the payment of any reasonable travel and subsistence costs incurred by the witness in connection with his or her appearance and any fees of a person who serves the subpoena in person. The Department shall pay the costs associated with the appearance of a Department employee whose role as a witness arises out of his or her performance of official duties, regardless of which party requested the subpoena. The failure to make payment of such charges on demand may be deemed by the Hearing Officer or Director as sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(vi) If a person refuses to obey a subpoena, the Director, acting through the Office of the General Counsel of the Department and the Department of Justice, may apply to the United States District Court in the jurisdiction where that person resides to have the subpoena enforced as provided in the Federal Rules of Civil Procedure (28 U.S.C. App.).

(3) Testimony required by subpoena pursuant to paragraph (a)(2) of this section may, at the discretion of the Director or a Hearing Officer, be presented at the hearing either in person or telephonically.

(b) Hearing procedures applicable to both record review and hearings.

(1) Upon the filing of an appeal under this part of an adverse decision by any agency, the agency promptly shall provide the Division with a copy of the agency record. If requested by the appellant prior to the hearing, a copy of such agency record shall be provided to the appellant by the agency within 10 days of receipt of the request by the agency.

(2) The Director shall assign the appeal to a Hearing Officer and shall notify the appellant and agency of such assignment. The notice also shall advise the appellant and the agency of the documents required to be submitted under paragraph (c)(2) of this section, and notify the appellant of the option of having a hearing by telephone.

(3) The Hearing Officer will receive evidence into the hearing record without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made.

(c) Procedures applicable only to hearings.

(1) Upon a timely request for a hearing under Sec. 11.6(b), an appellant has the right to have a hearing by the Division on any adverse decision within 45 days after the date of receipt of the request for the hearing by the Division.

(2) The Hearing Officer shall set a reasonable deadline for submission of the following documents:

(i) By the appellant:

(A) A short statement of why the decision is wrong;

(B) A copy of any document not in the agency record that the appellant anticipates introducing at the hearing; and

(C) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(ii) By the agency:

(A) A copy of the adverse decision challenged by the appellant;

(B) A written explanation of the agency's position, including the regulatory or statutory basis therefor;

(C) A copy of any document not in the agency record that the agency anticipates introducing at the hearing; and

(D) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(3) Not less than 14 days prior to the hearing, the Division must provide the appellant, the authorized representative, and the agency a notice of hearing specifying the date, time, and place of the hearing. The hearing will be held in the State of residence of the appellant, as determined by the Hearing Officer, or at a location that is otherwise convenient to the appellant, the agency, and the Division. The notice also shall notify all parties of the right to obtain an official record of the hearing.

(4) Pre-hearing conference. Whenever appropriate, the Hearing Officer shall hold a pre-hearing conference in order to attempt to resolve the dispute or to narrow the issues involved. Such pre-hearing conference shall be held by telephone unless the Hearing Officer and all parties agree to hold such conference in person.

(5) Conduct of the hearing.

(i) A hearing before a Hearing Officer will be in person unless the appellant agrees to a hearing by telephone.

(ii) The hearing will be conducted by the Hearing Officer in the manner determined by the Division most likely to obtain the facts relevant to the matter or matters at issue. The Hearing Officer will allow the presentation of evidence at the hearing by any party without regard to whether the evidence was known to the officer, employee, or committee of the agency making the adverse decision at the time the adverse decision was made. The Hearing Officer may confine the presentation of facts and evidence to pertinent matters and exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions. Any party shall have the opportunity to present oral and documentary evidence, oral testimony of witnesses, and arguments in support of the party's position; controvert evidence relied on by any other party; and question all witnesses. When appropriate, agency witnesses requested by the appellant will be made available at the hearing. Any evidence may be received by the Hearing Officer without regard to whether that evidence could be admitted in judicial proceedings.

(iii) An official record shall be made of the proceedings of every hearing. This record will be made by an official tape recording by the Division. In addition, either party may request that a verbatim transcript be made of the hearing proceedings and that such transcript shall be made the official record of the hearing. The party requesting a verbatim transcript shall pay for the transcription service, shall provide a certified copy of the transcript to the Hearing Officer free of charge, and shall allow any other party desiring to purchase a copy of the transcript to order it from the transcription service.

(6) Absence of parties.

(i) If at the time scheduled for the hearing either the appellant or the agency representative is absent, and no appearance is made on behalf of such absent party, or no arrangements have been made for rescheduling the hearing, the Hearing Officer has the option to cancel the hearing unless the absent party has good cause for the failure to appear. If the Hearing Officer elects to cancel the hearing, the Hearing Officer may:

(A) Treat the appeal as a record review and issue a determination based on the agency record as submitted by the agency and the hearing record developed prior to the hearing date;

(B) Accept evidence into the hearing record submitted by any party present at the hearing, and then issue a determination; or

(C) Dismiss the appeal.

(ii) When a hearing is cancelled due to the absence of a party, the Hearing Officer will add to the hearing record any additional evidence submitted by any party present, provide a copy of such evidence to the absent party or parties, and allow the absent party or parties 10 days to provide a response to such additional evidence for inclusion in the hearing record.

(iii) Where an absent party has demonstrated good cause for the failure to appear, the Hearing Officer shall reschedule the hearing unless all parties agree to proceed without a hearing.

(7) Post-hearing procedure. The Hearing Officer will leave the hearing record open after the hearing for 10 days, or for such other period of time as the Hearing Officer shall establish, to allow the submission of information by the appellant or the agency, to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised at the hearing. Any such new information will be added by the Hearing Officer to the hearing record and sent to the other party or parties by the submitter of the information. The Hearing Officer, in his or her discretion, may permit the other party or parties to respond to this post-hearing submission.

(d) Interlocutory review. Interlocutory review by the Director of rulings of a Hearing Officer are not permitted under the procedures of this part.

(e) Burden of proof. The appellant has the burden of proving that the adverse decision of the agency was erroneous by a preponderance of the evidence.

(f) Timing of issuance of determination. The Hearing Officer will issue a notice of the determination on the appeal to the named appellant, the authorized representative, and the agency not later than 30 days after a hearing or the closing

date of the hearing record in cases in which the Hearing Officer receives additional evidence from the agency or appellant after a hearing. In the case of a record review, the Hearing Officer will issue a notice of determination within 45 days of receipt of the appellant's request for a record review. Upon the Hearing Officer's request, the Director may establish an earlier or later deadline. A notice of determination shall be accompanied by a copy of the procedures for filing a request for Director review under Sec. 11.9. If the determination is not appealed to the Director for review under Sec. 11.9, the notice provided by the Hearing Officer shall be considered to be a notice of a final determination under this part.

§ 11.9 Director review of determinations of Hearing Officers.

(a) Requests for Director review.

(1) Not later than 30 days after the date on which an appellant receives the determination of a Hearing Officer under Sec. 11.8, the appellant must submit a written request, signed personally by the named appellant, to the Director to review the determination in order to be entitled to such review by the Director. Such request shall include specific reasons why the appellant believes the determination is wrong.

(2) Not later than 15 business days after the date on which an agency receives the determination of a Hearing Officer under Sec. 11.8, the head of the agency may make a written request that the Director review the determination. Such request shall include specific reasons why the agency believes the determination is wrong, including citations of statutes or regulations that the agency believes the determination violates. Any such request may be made by the head of an agency only, or by a person acting in such capacity, but not by any subordinate officer of such agency.

(3) A copy of a request for Director review submitted under this paragraph (a) shall be provided simultaneously by the submitter to each party to the appeal.

(b) Notification of parties. The Director promptly shall notify all parties of receipt of a request for review.

(c) Responses to request for Director review. Other parties to an appeal may submit written responses to a request for Director review within 5 business days from the date of receipt of a copy of the request for review.

(d) Determination of Director.

(1) The Director will conduct a review of the determination of the Hearing Officer using the agency record, the hearing record, the request for review, any responses submitted under paragraph (c) of this section, and such other arguments or information as may be accepted by the Director, in order to determine whether the decision of the Hearing Officer is supported by substantial evidence. Based on such review, the Director will issue a final determination notice that upholds, reverses, or modifies the determination of the Hearing Officer. The Director's determination upon review of a Hearing Officer's decision shall be considered to be the final determination under this part and shall not be appealable. However, if the Director determines that the hearing record is inadequate or that new evidence has been submitted, the Director may remand all or a portion of the determination to the Hearing Officer for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing.

(2) The Director will complete the review and either issue a final determination or remand the determination not later than--

(i) 10 business days after receipt of the request for review, in the case of a request by the head of an agency; or

(ii) 30 business days after receipt of the request for review, in the case of a request by an appellant.

(3) In any case or any category of cases, the Director may delegate his or her authority to conduct a review under this section to any Deputy or Associate Directors of the Division. In any case in which such review is conducted by a Deputy or Associate Director under authority delegated by the Director, the Deputy or Associate Director's determination shall be considered to be the determination of the Director under this part and shall be final and not appealable.

(e) Equitable relief. In reaching a decision on an appeal, the Director shall have the authority to grant equitable relief under this part in the same manner and to the same extent as such authority is provided an agency under applicable laws and regulations.

§ 11.10 Basis for determinations.

- (a) In making a determination, the Hearing Officers and the Director are not bound by previous findings of facts on which the agency's adverse decision was based.
- (b) In making a determination on the appeal, Hearing Officers and the Director shall ensure that the decision is consistent with the laws and regulations of the agency, and with the generally applicable interpretations of such laws and regulations.
- (c) All determinations of the Hearing Officers and the Director must be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate under the applicable agency program laws and regulations.

§ 11.11 Reconsideration of Director determinations.

- (a) Reconsideration of a determination of the Director may be requested by the appellant or the agency within 10 days of receipt of the determination. The Director will not consider any request for reconsideration that does not contain a detailed statement of a material error of fact made in the determination, or a detailed explanation of how the determination is contrary to statute or regulation, which would justify reversal or modification of the determination.
- (b) The Director shall issue a notice to all parties as to whether a request for reconsideration meets the criteria in paragraph (a) of this section. If the request for reconsideration meets such criteria, the Director shall include a copy of the request for reconsideration in the notice to the non-requesting parties to the appeal. The non-requesting parties shall have 5 days from receipt of such notice from the Director to file a response to the request for reconsideration with the Director.
- (c) The Director shall issue a decision on the request for reconsideration within 5 days of receipt of responses from the non-requesting parties. If the Director's decision upon reconsideration reverses or modifies the final determination of the Director rendered under Sec. 11.9(d), the Director's decision on reconsideration will become the final determination of the Director under Sec. 11.9(d) for purposes of this part.

§ 11.12 Effective date and implementation of final determinations of the Division.

(a) On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

(b) A final determination will be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable under the applicable agency program statutes or regulations.

§ 11.13 Judicial review.

(a) A final determination of the Division shall be reviewable and enforceable by any United States District Court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

(b) An appellant may not seek judicial review of any agency adverse decision appealable under this part without receiving a final determination from the Division pursuant to the procedures of this part.

§ 11.14 Filing of appeals and computation of time.

(a) An appeal, a request for Director review, or any other document will be considered "filed" when delivered in writing to the Division, when postmarked, or when a complete facsimile copy is received by the Division.

(b) Whenever the final date for any requirement of this part falls on a Saturday, Sunday, Federal holiday, or other day on which the Division is not open for the transaction of business during normal working hours, the time for filing will be extended to the close of business on the next working day.

(c) The time for filing an appeal, a request for Director review, or any other document expires at 5:00 p.m. local time at the office of the Division to which the filing is submitted on the last day on which such filing may be made.

APPENDIX 5

APPRAISAL GUIDELINES [7 CFR 3550.62]

A. SERVICING ACTIONS REQUIRING APPRAISALS

CSC may need to establish a property's market value in order to take several special servicing actions. In most cases the value of the property is determined through an appraisal. When an appraisal is required, CSC will request assistance from the Field Staff. CSC may need to have an appraisal conducted when:

- The property's value is needed to determine the amount of subsidy subject to recapture.
- The borrower requests that a portion of the security property be released and the Agency needs to determine if the remainder has adequate value to secure the Agency's debt.
- The borrower offers a deed-in-lieu of foreclosure and the Agency must know the property's value to determine whether to accept the deed or pursue judicial foreclosure.
- The Agency needs to determine whether its lien has value.
- The Agency pursues foreclosure and it must know the property's value in order to establish the bid price.
- The Agency is considering making a protective advance and the Agency needs to determine if the property's value will support the advance.

B. APPRAISAL BASICS

Real estate appraisers make their judgments about a property's value based on many factors. These factors include: location, market conditions, construction quality, and amenities. Appraisers use two appraisal methods to arrive at a final estimate of value: the sales comparison approach and the cost approach. A third method of estimating value, a broker's price opinion (BPO), may be used under certain servicing action.

- **Sales comparison approach.** Using the recent sales price of properties that are very close in location and characteristics to the property to be appraised, the appraiser

estimates a market value for the property, after correcting for differences such as location, physical characteristics, and market conditions.

- **Cost approach.** Under this method the appraiser uses standard estimates of the cost to construct the subject dwelling and an estimate of the site value to derive an estimate of value.
- **BPO.** A BPO is a statement by a licensed real estate broker as to the market value of a piece of property. A BPO may be authorized for use in limited circumstances.

The procedures appraisers must follow are found at the end of this Appendix. Depending on the purpose of the proposed loan, an appraiser will either give the estimated value of the property in its current condition (called the “as is” value), or, based on construction plans and specifications, give the estimated value of the property after development (called the “as developed/ improved” value). The “as is” value will be used for most CSC actions.

C. APPRAISAL ORDERS

CSC may use one of the following methods to order an appraisal: (1) it may request one from Field Staff; or (2) it may use local appraisers located throughout the country who are under contract with the CSC.

Appraisals in Remote Rural Areas or Tribal Lands

In remote rural areas and on Tribal lands, a lack of comparables can make it difficult to appraise a new construction property. In these areas, the sales comparison approach is not required. Instead, *Form 1007, Marshall and Swift Square Foot Appraisal* must be used. These appraisals must be conducted by Agency staff with appraisal authority; they cannot be done by contract appraisers.

Remote rural areas are defined as areas with all of the following characteristics:

- Scattered population;
- Low density of residences;
- Lack of basic shopping facilities;
- Lack of community and public services and facilities; and
- Lack of comparable sales data.

Field Staff should order appraisals within 7 days of receiving the work queue from CSC. In-house appraisals are to be completed within 30 days of the appraisal order. Contract appraisals are to be completed within the time specified on the contract; this should generally not exceed 30 days.

D. DUE DILIGENCE

The appropriate level of due diligence must be performed in conjunction with the appraisal for all servicing activities that require a determination of market value. Due diligence is the process of inquiring into the environmental condition of real estate in the context of a real estate

transaction to determine the presence of contamination from hazardous substances, hazardous wastes, or petroleum products. Due diligence also requires the determination of what impact such contamination may have on the market value of the property. Due diligence must be initiated by completing the *Transaction Screen Questionnaire, ASTM Standard E-1528 (TSQ)*, the initial level of inquiry in the due diligence process. If the completed TSQ raises any concerns, it must be sent to the appropriate Environmental Coordinator for further evaluation and guidance.

E. REVIEWING APPRAISALS

CSC should review each contract appraisal after it is received to determine the property's value. (Field Staff will conduct these reviews before sending the appraisals to CSC; therefore these reviews are unnecessary for Field-generated appraisals.) Appraisals will be reviewed for accuracy through a combination of administrative reviews and random spot-checks. If an appraisal is found to be unacceptable by any review, a new appraisal should be ordered and acceptably completed before the servicing action can continue.

1. Administrative Review

Administrative reviews are the least detailed of the reviews. They are to be performed on all contract or fee appraisals. This review determines whether the appraisal is complete, the mathematics are correct, there is a proper number of current comparables, and that both the cost and the comparable sales approaches were used to establish market value. The review should be completed as soon as possible, but must be completed within 7 days of the receipt of the appraisal.

A completed administrative review is necessary to authorize payment of a contract appraiser. The invoice cannot be paid until the appraisal review is complete.

2. Technical Review

A technical review is performed to determine whether the appraisal made by the appraiser was complete, with clear reasoning and adequate support for the conclusion of value. Technical reviews will be completed for the first appraisal conducted by any contract or fee appraiser. Additional technical reviews may be ordered if there were problems encountered on the first technical review. In addition to the initial review, technical reviews will be done in a random, spot-check method for both contract and in-house appraisals.

A technical review may also be conducted when problems are detected by the administrative review. These problems must be significant and result in an appraisal that does not support the concluded value. The CSC will determine whether a technical review is merited prior to recommending payment of the appraiser and approval of the loan.

3. Entering the Appraisal Results

After the review, if the appraisal is found to be acceptable, csc should enter the property's appraised value into fasteller. If the appraisal is acceptable, csc should use the property's appraised value to make its decision regarding the servicing action being contemplated.

F. PAYING FOR APPRAISALS [7 CFR 3550.62(b)]

The Agency will charge borrowers a fee for each servicing action that requires an appraisal. The charge to the applicant will be \$280, and the fee will be charged to the borrower's account.

NOTE TO RHS: At the current time, appraisal guidelines are being rewritten. In the interim,
please refer to RD Instruction 1922-C